



SUPREME COURT OF THE PHILIPPINES  
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**Republic of the Philippines  
Supreme Court  
Baguio City**

**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
Plaintiff-Appellee,

**G.R. No. 208836**

Present:

- versus -

**BERSAMIN, C.J., Chairperson,**  
**DEL CASTILLO, J.,**  
**CAGUIOA,\***  
**GESMUNDO, and**  
**CARANDANG, JJ.**

**NASROLLAH MACAUMBANG y**  
**ALI and JOSE SAGARBARIA y**  
**MISA,**

Promulgated:

Accused-Appellants.

**APR 01 2019**

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**DECISION**

**GESMUNDO, J.:**

This is an appeal from the April 30, 2013 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CR-HC No. 05125 affirming the June 2, 2011 Decision<sup>2</sup> of the Regional Trial Court, Muntinlupa City, Branch 205 (RTC) in Criminal Case No. 03-979 finding accused-appellants Nasrollah Macaumbang y Ali and Jose Sagarbaria y Misa (*accused-appellants*) guilty beyond reasonable doubt of violating Section 5, Republic Act (R.A.) No. 9165, or the Comprehensive Dangerous Drugs Act of 2002. Accused-appellants were each sentenced to suffer the penalty of life imprisonment and payment of a fine of Five Hundred Thousand Pesos (P500,000.00).

\* Designated as Special Member in lieu of Associate Justice Francis H. Jardeleza per Raffle dated March 4, 2019.

<sup>1</sup> *Rollo*, pp. 2-32; penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Normandie B. Pizarro and Pedro B. Corales, concurring.

<sup>2</sup> *CA rollo*, pp. 14-37; penned by Judge Amelia A. Fabros.

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### Antecedents

The information against accused-appellants partly reads:

That on or about the 26th day of November 2003, in the City of Muntinlupa, Philippines[,] and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law, conspiring and confederating together and both of them mutually helping and aiding one another did[,] then and there wilfully, unlawfully and feloniously sell, trade, deliver and gave (sic) away to another, Methylamphetamine Hydrochloride, a dangerous drug weighing 98.05 grams, contained in one (1) knot tied transparent plastic bag, in violation of the above-cited law.

CONTRARY TO LAW.<sup>3</sup>

Both accused-appellants pleaded not guilty upon arraignment.<sup>4</sup> Trial ensued.

The prosecution presented PO3 Jonathan Cruz (*Cruz*), SPO1 Tomas Calicdan (*Calicdan*), and P/Insp. Sandra Decena-Go (*Decena-Go*).

Cruz testified that he was assigned to the Metro Manila Regional Office of the Philippine Drug Enforcement Agency (*PDEA*) at Camp Crame, Quezon City.<sup>5</sup> On November 25, 2003, a confidential informant appeared before team leader Police Senior Inspector Manan Muarip (*Muarip*). Muarip told members of the team composed of Cruz, Calicdan, PO3 Rolando Tizon (*Tizon*), PO3 Rodolfo Laxamana, and PO3 Virgilio Lakduhan of the informant's tip about a certain "Boy" who allegedly sold Methylamphetamine Hydrochloride (*shabu*) at Montillano Street, Barangay Alabang, Muntinlupa City. At about noon of the same day, the team, along with the informant, boarded two (2) vehicles and proceeded to Montillano Street. The informant pointed out the house of "Boy." After assessing the location, the team returned to Camp Crame.<sup>6</sup>

The following day, November 26, 2003, at around 8:00 a.m., the commanding officer, assisted by Muarip, conducted a briefing on the buy-bust operation against "Boy." Cruz was designated as the poseur-buyer while Calicdan and Tizon were assigned as immediate back-up officers. The plan was for Cruz to buy one hundred (100) grams of shabu for ₱1,000.00

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<sup>3</sup> Records, p. 1.

<sup>4</sup> Id. at 31-32 and 34-35.

<sup>5</sup> TSN, September 8, 2004, p. 4.

<sup>6</sup> Id. at 5-11.

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per gram. Cruz was given two (2) one hundred peso bills, to be used as buy-bust money, and placed on top of the boodle money to make it appear that there was ₱100,000.00 in cash in the envelope. Cruz placed his initials "JAC" on the buy-bust money<sup>7</sup> which was then forwarded to the PNP Crime Laboratory for ultraviolet (*UV*) treatment.<sup>8</sup> During the same briefing, the team also agreed on a pre-arranged signal, that Cruz would give a "thumbs-up" sign once the sale was consummated. After the preparations, the team proceeded to Montillano Street. Cruz and the informant arrived at the house of "Boy" at around 10:30 a.m.<sup>9</sup> "Boy" went downstairs to meet them. Cruz later identified "Boy" as the same Sagarbaria.<sup>10</sup>

Sagarbaria told Cruz and the informant to come upstairs through the side of the house. Once they got to the second floor, Sagarbaria asked Cruz and the informant how much they wanted to buy. When Cruz said he would buy one hundred (100) grams, Sagarbaria replied that he would sell that amount for ₱1,000.00 per gram. Cruz negotiated to buy the said amount for ₱900.00 but Sagarbaria refused. Cruz and Sagarbaria eventually came to an agreement. Sagarbaria told Cruz and the informant to wait. Sagarbaria returned half an hour later and said that the order would arrive by noon. After thirty minutes, Macaumbang arrived and went directly to Sagarbaria. Accused-appellants then turned their backs on Cruz and the informant and conversed in secret for about two minutes. Sagarbaria then told Cruz that the order has arrived. At that point, Macaumbang took out from his pocket something wrapped in a white handkerchief which he handed to Cruz. Cruz then untied the handkerchief, which held a plastic bag containing a white crystalline substance. Sagarbaria then asked Cruz for the payment and the latter handed Sagarbaria a white window envelope containing the buy-bust money. Sagarbaria proceeded to count the money which enabled Cruz to execute the pre-arranged signal. Cruz then announced accused-appellants' arrest and introduced himself as a police officer.<sup>11</sup>

Back-up arrived. Calicdan retrieved the buy-bust money from Sagarbaria, while Cruz handcuffed Macaumbang. Cruz also gave Muarip the seized plastic bag containing white crystalline substance. The latter placed the seized item in a plastic bag on which was printed PDEA. Muarip had possession of the seized item from the place of arrest until its transfer to the Camp Crame office.<sup>12</sup> The team and accused-appellants arrived at the Camp Crame office at 2:30 p.m. Muarip placed the seized item on the table for photo-taking. Prior to the taking of photographs, Cruz wrote his initials

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<sup>7</sup> Id. at 12-13.

<sup>8</sup> Id. at 16.

<sup>9</sup> Id. at 22-23.

<sup>10</sup> Id. at 25.

<sup>11</sup> Id. at 26-33.

<sup>12</sup> Id. at 33-34.

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“JAC” on the item. A barangay official who was present when the item was photographed likewise signed the inventory receipt.<sup>13</sup> He also testified that the photographs were not developed as the film was exposed.<sup>14</sup>

After making the necessary markings, they prepared the request for laboratory examination, as well as requests for drug test, medical examination, and fluorescent powder testing for accused-appellants. Cruz delivered the item to the Crime Laboratory.<sup>15</sup> The examination yielded positive for the presence of methylamphetamine hydrochloride. Accused-appellants were also found positive for use of drugs. The dorsal side of Sagarbaria’s hands were also found positive for the presence of ultraviolet powder.<sup>16</sup>

Calicdan testified that he was assigned to the Special Enforcement Group of PDEA in Camp Crame, Quezon City.<sup>17</sup> His statements substantially corroborated those of Cruz’s insofar as the surveillance and buy-bust operation are concerned.<sup>18</sup> On the matter of the operation, he related that a man between 40 to 50 years old approached Cruz and the informant when they reached the barber shop on the ground floor of the house of “Boy.”<sup>19</sup> The man talked to Cruz and the informant for about fifteen (15) minutes before they entered a house in an alley and went upstairs. Calicdan was at an eatery from where he could see Cruz through a window on the second floor of the house.<sup>20</sup> The man, who turned out to be “Boy,” went out of the house and returned at around 11:45 a.m.<sup>21</sup> Sometime later, a young man between 18 to 25 years old and appeared to be carrying something in his hands, went upstairs. After thirty (30) minutes, Cruz gave the thumbs-up signal.<sup>22</sup> Calicdan then entered the house where he saw “Boy” holding the white window envelope containing the buy-bust money. He also saw that Cruz was holding a plastic sachet wrapped in a white handkerchief which Cruz said was the item he was able to buy.<sup>23</sup> Calicdan also saw two (2) persons peeping at the door of the other room, about four (4) meters away.<sup>24</sup> The team introduced themselves as PDEA members and informed accused-appellants of their violation and of their constitutional rights. Calicdan took the white window envelope from Sagarbaria, who asked the arresting team

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<sup>13</sup> Id. at 42-43.

<sup>14</sup> Id. at 35-36 and 66-67.

<sup>15</sup> Id. at 39.

<sup>16</sup> Id. at 45-46 and 49.

<sup>17</sup> TSN, September 13, 2005, p. 5.

<sup>18</sup> Id. at 6-11.

<sup>19</sup> Id. at 21-22.

<sup>20</sup> Id. at 22-23.

<sup>21</sup> Id. at 25.

<sup>22</sup> Id. at 26.

<sup>23</sup> Id. at 27, 29.

<sup>24</sup> Id. at 31.

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whether they could just fix or negotiate his violation ("*areglohin*").<sup>25</sup> Muarip went upstairs and the seized item was placed in an evidence bag. Cruz held on to the evidence bag and the buy-bust money was with Calicdan until they got back to their office in Camp Crame.<sup>26</sup>

Upon arriving at the office, the evidence was placed on a table and an inventory was conducted.<sup>27</sup> The markings of the items were likewise done in the office.<sup>28</sup> The Certificate of Inventory was signed by Muarip and Kagawad Rodel Frayna in front of both accused-appellants.<sup>29</sup> The team also prepared the following requests: laboratory examination of the seized item, fluorescent powder testing on accused-appellants and the buy-bust money, physical and medical examination, and drug test. Calicdan accompanied Cruz when the latter delivered the item to the crime laboratory. After the examination, the item was found to be positive for methylamphetamine hydrochloride.<sup>30</sup>

Meanwhile, the defense presented both accused-appellants and Elizabeth Sagarbaria as witnesses.

Macaumbang testified that he came from Marawi City and worked as a mobile phone technician.<sup>31</sup> At around noon on November 26, 2003, he was inside a barber shop for a haircut when he saw a commotion happening outside. As people scampered, he tripped and bumped into two (2) armed men near the door. The men, who introduced themselves as police officers, held his right shoulder and asked him where he was going. Macaumbang resisted and asked what his fault was and why he was being arrested. The men then dragged him towards a stairway, hurting and suffocating him.<sup>32</sup> They brought him upstairs, where one of the men kicked the door open and pushed him inside. Also, another man was inside the room. Macaumbang only knew of the identity of the man, who turned out to be "Boy," when they were already in jail. Both he and "Boy" were told to lie face down and then were handcuffed.<sup>33</sup> They then boarded two vehicles and proceeded to Camp Crame. Once at Camp Crame, the two police officers talked to him and brought him to a rest room, where they asked him whether he had "*pang-areglo*." The policemen told him that if he had the money, he would be set free. He said he had only ₱1,600.00 in his pocket, but the police officers

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<sup>25</sup> Id. at 32.

<sup>26</sup> Id. at 33.

<sup>27</sup> Id. at 34.

<sup>28</sup> Id. at 38.

<sup>29</sup> Id. at 35.

<sup>30</sup> Id. at 39, 49.

<sup>31</sup> TSN, February 27, 2007, p. 3.

<sup>32</sup> Id. at 4-8.

<sup>33</sup> Id. at 10-11.

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asked whether he had anymore. Calicdan took his wallet, while he explained that it was all he had earned as a technician for four days. His money was not returned.<sup>34</sup>

The policemen also asked him whether he knew “Boy,” to which he said no. They all returned to the room where Macaumbang cried and begged to be let go; but he was told “diyan ka na, tumigil ka na.”<sup>35</sup> He was handcuffed and they made their way to the laboratory. On their way, a police officer rubbed a ₱100 bill on his hand.<sup>36</sup> He denied bringing shabu wrapped in a handkerchief and delivering it to Sagarbaria.<sup>37</sup>

On his part, Sagarbaria testified that on November 26, 2003, he was on the second floor of his house getting a manicure.<sup>38</sup> At that time, police officers arrived, which caused a commotion on the ground floor.<sup>39</sup> He saw a policeman pulling a man upstairs from the barber shop. The police officers kicked the door of the room open, and looked for a certain person. Sagarbaria said he did not know the person they were looking for. They then told the person they dragged upstairs to lie on the floor while they searched the room. Sagarbaria then heard someone say “Wala dito, wala naman tayong makukuha, ibaba na yan.” He and the other man were brought down. They boarded a white car because they could not be accommodated in the two other vehicles that were already full of other handcuffed persons.<sup>40</sup> When they reached Camp Crame, the police officers asked him the name of the other man arrested with him; he said he did not know.<sup>41</sup> The police officers told him to tell his wife to come to Camp Crame. His wife and their son came the same night. His wife told him that the police officers were demanding ₱200,000.00 for his release; but she said she had only ₱50,000.00. The police officers asked her to come back the following day with the full amount.<sup>42</sup>

On the same day, at around 4:00 p.m. to 5:00 p.m., accused-appellants were brought to a barangay hall near Camp Crame. The police officers were not able to find the barangay chairman so they called the person sweeping the floor.<sup>43</sup> Sagarbaria was forced to hold the white window envelope, which he refused to do, but the police officers brushed his closed fist against the

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<sup>34</sup> Id. at 13 and 16-18.

<sup>35</sup> Id. at 19.

<sup>36</sup> Id. at 26.

<sup>37</sup> Id. at 21.

<sup>38</sup> TSN, July 10, 2007, p. 4.

<sup>39</sup> Id. at 4.

<sup>40</sup> Id. at 6-10.

<sup>41</sup> Id. at 14.

<sup>42</sup> Id. at 15-16 and 19.

<sup>43</sup> Id. at 20.

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envelope.<sup>44</sup> They were then brought back to Camp Crame to a place which looked like a hospital, and where their urine and his hand were examined. The chemist did not find ultraviolet powder. They found cuticle remover substance instead, because his hand was having a manicure when he was arrested. They were also asked whether they were mauled or why they had a contusion. He said no, although Macaumbang had a cut on his lip. They stayed overnight at Camp Crame.<sup>45</sup>

The following day, at around 1:00 p.m., they were brought to the office of the City Prosecutor of Muntinlupa, before whom Sagarbaria signed his counter-affidavit.<sup>46</sup> He was unable to read the document because he was asked to sign it just as they were about to enter the prosecutor's office. When he read his counter-affidavit, he noticed that there were inaccuracies on the document. He asked his lawyer why the things he wrote were not included. His lawyer said he would take care of the matter.<sup>47</sup> His wife, daughter, and barber Jimuel Ole, submitted affidavits during the preliminary investigation.<sup>48</sup>

The final defense witness was Elizabeth Sagarbaria, wife of accused-appellant. She stated that she was tending to the barber shop at 11:00 a.m. then she brought a manicurist to her husband on the second floor for a manicure.<sup>49</sup> As she was putting her grandchild to sleep, a man with a gun and some civilian-clad companions, entered their house. She asked them what they were looking for but they did not answer. She then saw her husband go downstairs. She was going to follow but a man prevented her from doing so. Nothing was found in the room.<sup>50</sup>

On presentation of rebuttal evidence, Calicdan denied pulling Macaumbang up to the second floor, and that it was Cruz, the informant, and Sagarbaria who first went up to the second floor. He saw Macaumbang get to the second floor sometime after Sagarbaria came back. At the time of arrest, Macaumbang was already at the second floor.<sup>51</sup> He also denied demanding money from Sagarbaria's wife. On the contrary, Sagarbaria asked them if they could just settle the case with an "*areglo*" offered to Calicdan, Cruz, and Tizon<sup>52</sup> while still at the place of the incident.<sup>53</sup> He likewise denied that accused-appellants were brought out of Camp Crame to

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<sup>44</sup> TSN, November 13, 2007, p. 15.

<sup>45</sup> TSN, July 10, 2007, pp. 22 and 24-26.

<sup>46</sup> *Id.* at 26 and 31.

<sup>47</sup> TSN, November 13, 2007, p. 10.

<sup>48</sup> TSN, July 10, 2007, p. 44.

<sup>49</sup> TSN, December 9, 2009, pp. 3-4.

<sup>50</sup> *Id.* at 4-9.

<sup>51</sup> TSN, May 19, 2010, pp. 5-7 and 10.

<sup>52</sup> Referred to as "Quizon" in the TSN, see *Id.* at 13.

<sup>53</sup> *Id.* at 12-14.

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a nearby barangay hall for picture-taking.<sup>54</sup> Finally, he explained that they were not able to do an inventory at the place of arrest because the informant told them that Sagarbaria had a police coddler.<sup>55</sup>

Further, P/Insp. Decena-Go stated that she examined accused-appellants for the presence of UV powder on their hands.<sup>56</sup> She rebuffed Sagarbaria's statement that she had told him that the test for fluorescent powder on him yielded a negative result. She only gave results through a written report.<sup>57</sup> She clarified that she saw UV powder which can only be seen under UV light, while a cuticle remover does not emit light under a UV tester. She said Sagarbaria was positive for UV powder found on the dorsal portion of his hands.<sup>58</sup> There was no UV powder on Sagarbaria's palm, which could be caused by him not touching any object with ultraviolet powder or that the powder was washed away.<sup>59</sup>

### *The RTC Ruling*

The trial court ruled that all the elements for the sale of dangerous drugs were present and that the prosecution proved the guilt of both accused-appellants beyond reasonable doubt. The testimony of the prosecution witness, Cruz, clearly established the purchase and sale of 100 grams of methylamphetamine hydrochloride for ₱100,000.00 on the date, time, and place in question. Moreover, the prosecution witnesses positively identified the seized item upon its presentation in open court. The trial court also said that the arresting officers had established the chain of custody. The inconsistency as to who took actual custody of the seized item was clarified, and that Cruz's testimony should be believed as he had personal knowledge of it. The trial court further ruled that, despite the item not being marked, inventoried, and photographed at the place of arrest, there was still substantial compliance with the requirements of Sec. 21 of R.A. No. 9165 because of the explanation that Sagarbaria was "coddled" by a policeman. They also noticed persons peeping through the other rooms who may possibly and violently intervene.<sup>60</sup>

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<sup>54</sup> Id. at 15-16.

<sup>55</sup> Id. at 34.

<sup>56</sup> TSN, August 11, 2010, p. 4.

<sup>57</sup> Id. at 6.

<sup>58</sup> Id. at 7-8.

<sup>59</sup> Id. at 14.

<sup>60</sup> CA rollo, p. 161.

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Finally, the RTC found the defense of denial offered by accused-appellants to be mere afterthought. The presumption of regularity in the performance of duty of the arresting officers was also highlighted considering that there was no grudge or quarrel between accused-appellants and the police officers.<sup>61</sup>

As such, the RTC disposed of the case *viz.*:

WHEREFORE, premises considered, both accused **Nasrollah Macaumbang y Ali and Jose Sagarbaria y Misa** are found GUILTY beyond reasonable doubt of the crime of ILLEGAL SALE of METHYLAMPHETAMINE HYDROCHLORIDE, a dangerous drug, weighing 98.05 grams, contained in one (1) knot tied transparent plastic bag, as defined and penalized under Section 5 of Republic Act No. 9165, and are hereby sentenced to suffer a penalty of LIFE IMPRISONMENT and a fine of Five Hundred Thousand Pesos (PhP500,000.00), respectively.

SO ORDERED.<sup>62</sup>

### ***The CA Ruling***

The appellate court adopted the factual findings of the trial court and affirmed accused-appellants' conviction for violation of Sec. 5 of R.A. No. 9165. The CA noted that there was a buy-bust operation which gave rise to the arrest of accused-appellants *in flagrante delicto*; thus, the case did not require a warrant of arrest. Macaumbang also pointed out several inconsistencies, which the CA adjudged as referring to minor and trivial matters having no substantial bearing on the commission of the offense. As to the contention that the informant should have been presented in this case, the CA mentioned that informants are almost always never presented in court because of the need to preserve their service to the police. As to the buy-bust money, the fact that there were no traces of UV powder on Sagarbaria's palms did not contradict the claim that a sale had taken place. The presentation of the marked money is not even necessary for the prosecution of a violation of Sec. 5, R.A. No. 9165. Given all these, the CA found that all the elements for the sale and delivery of 98.05 grams of shabu were established. The CA agreed with the lower court's belief on the version of the prosecution, noting that the trial court judge is in a better position to determine issues on the credibility of witnesses.

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<sup>61</sup> Id. at 162.

<sup>62</sup> Id. at 37 and 162.

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The CA likewise highlighted Sagarbaria's statements in his counter-affidavit, admitting that he was a shabu user and that he ordered the same from Macaumbang.<sup>63</sup> This fact was taken into consideration by the appellate court, especially as Sagarbaria's cousin prepared his counter-affidavit and is not expected to jeopardize the interests of his own relative.

The CA also believed that the integrity of the drug seized was preserved and the chain of custody unbroken. While there was no inventory at the place of arrest and the seized item was only marked at the police station, the same did not automatically impair the integrity of the chain of custody. The CA followed the chain of custody of the seized item, starting from when he gave the same to Muarip, until the same was placed on the table and identified by Cruz, on which he placed his initials. They had a barangay official inspect the evidence before signing the inventory. The barangay official was also present during the taking of photographs.<sup>64</sup> Cruz then prepared the request for laboratory examination and delivered the seized item to the crime laboratory, accompanied by Calicdan. Meanwhile, the CA mentioned the stipulation on the testimony of the forensic chemist who conducted the laboratory examination. From all this, it was established that the police officers substantially complied with the procedural requirements under Sec. 21, R.A. No. 9165. Accused-appellants failed to adduce any evidence to show that the integrity of the evidence had been compromised.

Finally, as to Sagarbaria's defense of denial, the appellate court observed that bare denials cannot prevail over their positive identification as the sellers of the shabu. Defenses of denial and frame-up for purposes of extortion have been viewed with disfavor. Further, there was no showing that the prosecution witnesses held a grudge or motive to falsely testify against accused-appellants. All in all, the CA sustained the RTC decision, thus:

**WHEREFORE**, premises considered, the Decision dated June 02, 2011 of the RTC, Branch 205, Muntinlupa City in Criminal Case No. 03-979 is hereby **AFFIRMED**. No costs.

**SO ORDERED.**<sup>65</sup>

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<sup>63</sup> *Rollo*, p. 25.

<sup>64</sup> *Id.* at 28.

<sup>65</sup> *Id.* at 31.

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Hence, this appeal.

Complying with the Court's November 27, 2013 Resolution<sup>66</sup> Macaumbang, through counsel, filed a Manifestation,<sup>67</sup> dated January 28, 2014, stating that he was no longer filing a supplemental brief and submitting the case for consideration based on the earlier briefs, pleadings, and other records of the case. Sagarbaria likewise filed, through counsel, a Manifestation in Lieu of a Supplemental Brief,<sup>68</sup> dated June 27, 2014, stating that he adopts his appellant's brief filed before the CA as his supplemental brief. The Office of the Solicitor General (*OSG*) representing the People of the Philippines, filed a Manifestation and Motion,<sup>69</sup> dated January 23, 2014, stating that it will no longer file a supplemental brief to avoid redundancy as the appellants' guilt had already been exhaustively discussed in the Consolidated Appellee's Brief.

### ISSUE

WHETHER ACCUSED-APPELLANTS' GUILT WAS PROVEN BEYOND REASONABLE DOUBT FOR VIOLATION OF SEC. 5, OF R.A. NO. 9165, CONSIDERING THE REQUIREMENTS SET FORTH BY SEC. 21 OF THE SAME.

#### *Arguments for accused-appellants*

Macaumbang argues that the prosecution has the burden of proving his guilt beyond reasonable doubt and he should be presumed innocent. He cites glaring inconsistencies in the testimonies of the prosecution witnesses: Cruz testified that Muarip carried the seized item from the place of arrest to Camp Crame, while Calicdan offered a conflicting story saying he saw Cruz carry it, thus, making the chain of custody not only broken but disputed; there were differences in Calicdan's testimony as to the members of the buy-bust team; there was also conflict as to the time Cruz waited for Sagarbaria to come back to them; and, Calicdan and Cruz testified differently as to who conducted the initial briefing. There was also a difference as to the address of the buy-bust venue. Cruz said they went to 249 Montillano Street while Calicdan said it was at 294 Montillano Street.<sup>70</sup> These discrepancies cast doubt on the accusation against Macaumbang. Finally, no physical inventory

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<sup>66</sup> Id. at 39.

<sup>67</sup> Id. at 49.

<sup>68</sup> Id. at 56-57.

<sup>69</sup> Id. at 45-46.

<sup>70</sup> Id. at 4 and 7.

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and taking of photographs were done; and there was no representative of the media and the Department of Justice, a violation of Sec. 21, R.A. No. 9165.

Sagarbaria, on the other hand, defended himself by maintaining that: he was not involved in the sale of illegal drugs; the informant was not presented by the prosecution; the warrantless arrest was illegal; the case showed seizure of the “fruit of the poisonous tree”; no person would sell shabu at noontime in a barbershop and in plain view of numerous bystanders; there was noncompliance with Sec. 21(1) of R.A. No. 9165; and the arresting officers failed to immediately mark the shabu allegedly confiscated from Sagarbaria. There were also deviations from the standard procedure of taking photographs and having representatives from the media and the Department of Justice present; and that the presumption of regularity in the performance of official function cannot prevail over the presumption of innocence unless the latter is overthrown by proof beyond reasonable doubt.

#### *Arguments for the People*

The prosecution, through the OSG, claims that accused-appellants were arrested during a legitimate buy-bust operation, which made search and arrest warrants dispensable; a buy-bust operation, when carried out with due regard for constitutional and legal safeguards, is a judicially sanctioned method of apprehending persons involved in illegal drug activities; the prosecution evidence positively showed that accused-appellants agreed to sell shabu to the poseur-buyer; the inconsistencies pointed out by Macaumbang do not detract from the fact that they were found in possession of a prohibited drugs; the prosecution was able to explain why the marking, inventory, and photographing were done at the police station and finally, accused-appellants failed to overcome the presumption of regularity in the police officers’ performance of their duty.

### THE COURT’S RULING

It should be noted that the appeal opens the entire record for review, thus, enabling the Court to determine whether the findings against accused-appellants should be upheld or struck down in their favor.<sup>71</sup> After a careful examination of the records, We rule that accused-appellants’ pleas for their acquittal is meritorious.

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<sup>71</sup> *People v. Reyes*, 797 Phil. 671, 680 (2016).

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Sec. 5, Article II of R.A. No. 9165 punishes the sale of dangerous drugs, which includes methamphetamine hydrochloride, viz.:

SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (₱500,000.00) to Ten million pesos (₱10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

To secure the conviction of an accused alleged to have violated the above provision, the prosecution must prove the presence of the following elements: the identities of the buyer and seller, the transaction or sale of the illegal drug, and the existence of the *corpus delicti*. The intrinsic worth of the pieces of evidence, especially the identity and integrity of the *corpus delicti*, must be shown to have been preserved. To remove any doubt or uncertainty on the identity and integrity of the seized drug, evidence must definitely show that the illegal drug presented in court is the same illegal drug actually recovered from the accused; otherwise, the prosecution for possession or for sale under R.A. No. 9165 fails.<sup>72</sup>

Sec. 21 of R.A. No. 9165 (*Sec. 21*), supplemented by the implementing rules and regulations of the law, (*Implementing Rules*), outlines the steps that should be followed to ensure the identity and integrity of the seized drug. The relevant portions of the Implementing Rules pertaining to Sec. 21 are as follow:

SECTION 21. *Custody and Disposition of Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* — The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled, precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

(1) The apprehending officer/team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice (DOJ), and any

<sup>72</sup> *People v. Denoman*, 612 Phil. 1165, 1175 (2009).

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elected public official who shall be required to sign the copies of the inventory and be given a copy thereof: *Provided*, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures: *Provided, finally*, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

This step-by-step procedure outlined under R.A. No. 9165 is a matter of substantive law, which cannot be simply brushed aside as a procedural technicality. Owing to the gross disregard of these mandatory procedural safeguards, and failure to give justifiable reasons for it, the Court may conclude that the integrity and identity of the *corpus delicti* have been compromised.<sup>73</sup>

The above provision was later amended in R.A. No. 10640,<sup>74</sup> which was approved on July 15, 2014. One of the changes was as to the witnesses required to be present at the inventory. From requiring a representative of the media, a representative of the Department of Justice, and an elected public official, the amended law now require an elected public official and a representative of the National Prosecution Service or the media to be present at and to sign the inventory.<sup>75</sup> However, R.A. No. 10640 cannot be applied here as the incident occurred in 2003; thus, the three witness rule prevails.<sup>76</sup>

In this case, the factual findings of the CA and the RTC both point to the existence of the sale of 98.05 grams of shabu, as well as the exchange of cash, ₱200.00 of which was marked money, between Cruz, the poseur-buyer, and accused-appellants. There is no need to disturb these findings. The Court finds no reason to question the credibility of the witnesses presented by the prosecution insofar as the truth of the transaction is concerned. However, as to whether the procedure laid down by Sec. 21 and the Rules is concerned, the case presented by the prosecution leaves much to be desired. The deficiencies in the prosecution's evidence will be discussed *in seriatim*.

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<sup>73</sup> See *People of the Philippines v. Bautista*, 723 Phil. 646, 654 (2013).

<sup>74</sup> An Act to Further Strengthen the Anti-Drug Campaign of the Government, amending for the purpose Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002."

<sup>75</sup> See Sec. 2, R.A. No. 10640.

<sup>76</sup> See *People v. Sipin*, G.R. No. 224290, June 11, 2018.

*Significant gaps in the chain of custody*

Chain of custody is defined as “duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping, to presentation in court for destruction.”<sup>77</sup> The chain of custody rule ensures that unnecessary doubts concerning the identity of the evidence are removed.<sup>78</sup> The oft-cited case of *Mallillin v. People of the Philippines*<sup>79</sup> clarified what qualifies as evidence of an unbroken chain of custody:

As a method of authenticating evidence, the chain of custody rule requires that the admission of an exhibit be preceded by evidence sufficient to support a finding that the matter in question is what the proponent claims it to be. **It would include testimony about every link in the chain, from the moment the item was picked up to the time it is offered into evidence, in such a way that every person who touched the exhibit would describe how and from whom it was received, where it was and what happened to it while in the witness' possession, the condition in which it was received and the condition in which it was delivered to the next link in the chain. These witnesses would then describe the precautions taken to ensure that there had been no change in the condition of the item and no opportunity for someone not in the chain to have possession of the same.** (emphasis supplied)

To demonstrate that the rule on the chain of custody was complied with, the following links should be present:

*First*, the seizure and marking, if practicable, of the illegal drug recovered from the accused by the apprehending officer;

*Second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer;

*Third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and

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<sup>77</sup> *People v. Gayoso*, 808 Phil. 19, 30 (2017).

<sup>78</sup> *People v. Gutierrez*, 614 Phil. 285, 293 (2009).

<sup>79</sup> 576 Phil. 576, 587 (2008).

*Fourth*, the turnover and submission of the marked illegal drug seized from the forensic chemist to the court.<sup>80</sup>

As to the first and second links, the following testimony of Cruz during direct examination illuminates the steps taken by the apprehending team:

Q: How about the white crystalline substance inside the transparent plastic and placed on a white handkerchief, what did you do with it?

A: I gave it to our team leader, Sir, who came.

Q: What is the name of your team leader?

A: Police Senior Inspector Manan Muarip, sir.

x x x x

Q: Who carried the shabu or crystalline substance which you bought from house [N]o. 249 in Montillano Street, Alabang, Muntinlupa City to your office in Camp Crame, Quezon City?

A: It was our team leader who carried the shabu from the place of arrest to our office, Sir, because he was in our vehicle.

Q: If that crystalline substance or suspected shabu you brought from alias boy is shown to you again now, will you be able to identify it?

A: Yes, Sir.

Q: How will you be able to identify it?

A: Because I placed a marking on it, Sir.

Q: What identifying markings did you placed on it?

A: I placed my initial, Sir, which is JAC and the date 26 November 2003, Exhibit "A".

Q: At what place did you put those identifying markings?

A: In the office, Sir.

Q: **How were you able to mark them with those markings when according to you, you delivered it to Mr. Muarip?**

A: **When both accused was arrested, Sir, our team leader came and I gave to him the shabu and upon arriving in our office, he placed the shabu on the table for photograph but before it was photographed, I placed first the markings on it.**

x x x x

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<sup>80</sup> *People v. Guillergan*, 797 Phil. 775, 785 (2016).

Q: I [am] showing you a document already marked as Exhibit "A" in this case, which is a request for laboratory examination dated 26 November 2003 addressed to the director of PNP crime laboratory, [C]amp [C]rame, Quezon City, what relation has this Exhibit "A" to that request for laboratory examination you mentioned?

A: This is the request for laboratory examination we prepared, Sir, on the shabu we bought from both accused in this case.

Q: And, what evidence do you have to show in Court that this was received by the crime laboratory?

A: Because I'm the one who caused the receipt of this request for laboratory examinaiton, Sir, and this is the stamp mark received by PNP.

x x x x

Q: Who carried these items from your office to the crime laboratory at Camp Crame, Quezon City?

A: I was the one who carried those items, Sir.

Q: What evidence do you have to show that it was you who delivered these items to the crime laboratory?

A: This one, Sir.

Pros. Taplac:

Witness, Your Honor, pointing to the entry in Exhibit "A-1," which reads delivered by PO3 J. Cruz.

Q: Do you know if the laboratory examination requested was in fact conducted?

A: Yes, Sir.

Q: Why do you say there was?

A: Because I got the result, Sir, the following day.

x x x x

Q: Aside from taking a photograph of the shabu or white crystalline substance at your office, what else did you do with it[,] if any?

A: We let a barangay official signed the inventory receipt, Sir.

Q: If that inventory is shown to you again, will you be able to identify it?

A: Yes, Sir.<sup>81</sup> (emphasis supplied)

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<sup>81</sup> TSN, September 8, 2004, pp. 33-35 and 39-43.

Meanwhile, Calicdan stated on direct examination:

Q: And then what next happened?

A: Our team leader Capt. Muarip went upstairs, Sir, and the evidence that we recovered were placed into the evidence bag.

Q: Can you describe this evidence bag?

A: It was a plastic bag with a name PDEA and evidence bag, Sir.

Q: And who was in possession of that evidence from then on, which contained the shabu bought by Jonathan Cruz from the accused?

A: Capt. Muarip, Sir, with PO3 Jonathan Cruz.

Q: **Who between the two was actually holding or in actual custody of that evidence bag?**

A: **The one I saw holding the evidence bag as we go downstairs was PO3 Jonathan Cruz, Sir.**

Q: How about the buy-bust money, where was it when you were leaving the house?

A: It was in my possession, Sir.

Q: And what next happened?

A: We brought them to our office for proper disposition, Sir.

Q: **And who carried the evidence bag containing the suspected shabu from there up to your office?**

A: **PO3 Jonathan Cruz, Sir, they both boarded on a car.**<sup>82</sup>  
(emphases supplied)

Obvious from the above, contrary to the mandate of Sec. 21, the seized item was not marked immediately upon seizure and confiscation. It is also immediately noticeable that the prosecution witnesses differ in their accounts as to who had possession of the seized item from Muntinlupa to Quezon City. Even if the testimonies were consistent as to the possessor of the seized item, the above testimonies are sorely wanting as to the precautions taken by Cruz and Muarip. The seized item was also transported a considerable distance – from Muntinlupa to Quezon City – before it was marked and inventoried, exposing the same to a multitude of factors that would endanger its integrity. The Court also observes that Muarip, who held the specimen for a significant period of time, was not presented; nor was there any stipulation as to what he could have testified to regarding his handling of the seized drug.

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<sup>82</sup> TSN, September 13, 2005, pp. 32-34.

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The third link, however, was adequately established by the brief testimonies of Cruz and Calicdan, who both attested to the fact that Cruz carried those items to the crime laboratory.<sup>83</sup> This was also reflected in the Request for Laboratory Examination of one (1) knot-tied transparent plastic bag containing white crystalline granules marked as Exhibit "A"<sup>84</sup> presented to the RTC. The document bears the stamp showing the same was delivered by "PO3 Jonathan A. Cruz" and received by "PI SD Go."

Once more, the prosecution hits a stumbling block as the fourth link is likewise conspicuously absent. The Court is cognizant of the common practice that the forensic chemist's testimony is often dispensed with during trial; with the parties merely stipulating on the facts the forensic chemist would testify on instead of the forensic chemist's actual appearance during trial. The same practice was done in this case. The parties stipulated during pre-trial the following:

1. That if government forensic chemist Engr. Sandra Decena-Go, an expert (on dangerous drugs) witness, here to testify, she would tell the court that she received a request for laboratory examination from P/Chief Insp. Romualdo P. Iglesia dated 26 November 2003;
2. That attached to the said request is a one-half stapled brown mailing envelope inside which was one (1) plastic packet with the marking "PDEA" marking inside which is a white handkerchief marked as "Exhibit B, November 26, 2003" where a transparent plastic bag with white crystalline substance marked with red pentel pen as "Exhibit A-JAC, November 26, 2003" and weighing 98.05 grams is wrapped;
3. Said chemist conducted a chemical analysis thereof and reduced the result into writing, denominated as Chemistry Report No. D-1196-038.<sup>85</sup>

During the trial proper, the presentation of forensic chemist Decena-Go was dispensed with, the trial court having issued an Order, dated August 8, 2006, reflecting the stipulations of the prosecution as to her testimony, to wit:

Although last prosecution witness Engr. Sandra Decena-Go was present and ready to testify at today's continuation of the presentation of prosecution evidence, she was no longer presented as defense counsel Atty. Jose Alfonso Gomos admitted her expertise. The prosecution and the defense likewise stipulated on the following facts: 1) That as government forensic chemist assigned to the PNP Crime Laboratory in Camp Crame,

<sup>83</sup> TSN, September 8, 2004, p. 40. See also TSN, September 13, 2005, p. 48.

<sup>84</sup> Records, p. 197.

<sup>85</sup> Id. at 40.

she received a request for both accused persons' fluorescent powder testing dated November 26, 2003 (Exhibit "E-3"); 2) That such request was received at the crime laboratory on November 26, 2003, at 5:18 o'clock in the afternoon by Engr. Sandra Decena-Go for which a report was issued in the form of an Initial Laboratory Report (Exhibit "F-1") and Chemistry Report No. C-536-03 (Exhibit "F-2"/"1"); 3) A request for money dusting dated November 25, 2003 (Exhibit "E") was submitted together with the original two pieces of one hundred peso bills (Exhibits "E-1" and "E-2") and received at Camp Crame at 10:00 o'clock in the morning by PO3 Resco; 4) That the result of such money dusting was the Initial Laboratory Report of Chemistry Report No. C-537-03 (Exhibit "E-4"); 5) That Chemistry Report No. C-536-03, completed on November 26, 2003 at 5:48 o'clock in the afternoon (Exhibit "1-A"), indicates that the dorsal portion of the hands of Jose Sagarbaria y Misa tested positive for the presence of ultra violet fluorescent powder found only at the crevices of the base of the nails where they survived despite friction as illustrated in the sketch prepared by the witness (Exh. "F-2-c"); 6) That the said report also indicates that the palmar portion of accused Sagarbaria's hand tested negative for the presence of ultra violet fluorescent powder as illustrated in another sketch (Exhibit "F"-2'd"/ "4"); 7) That as shown in the sketches of accused Nasrollah Macaumbang's hands (Exhibit "F-2-A"/ "3," "F-2-B"/ "2"), the dorsal and palmar portion of both hands tested negative for the presence of ultra violet fluorescent powder (Exhibit "2-A" and "2-B" for the palmar side and Exhibit "3-A" and "3-B" for the dorsal side).<sup>86</sup>

These stipulations hardly meet the standard required by law and jurisprudence. There was no statement as to who had custody of the seized item after the examination and how it was handled. In instances like this, where the evidence presented by the prosecution failed to reveal the identity of the person who had custody and safekeeping of the drugs after its examination and pending presentation in court, the prosecution was found to have failed to establish the chain of custody.<sup>87</sup> Where there was no record as to what happened after the turnover by the poseur-buyer of the pack of shabu to their team leader, the Court ruled the same as a "significant gap in the chain of custody of the illegal stuff." These gaps include the inexplicable failure of the police officers to testify as to what they did with the alleged drug while in their respective possession that resulted in a breach or break in the chain of custody of the drug.<sup>88</sup> It should be noted, too, that Decena-Go could have testified on the matter when she was presented during the presentation of rebuttal evidence, but the prosecution did not ask any question pertinent to the issue of the fourth link on the chain of custody.

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<sup>86</sup> *Id.* at 193-194.

<sup>87</sup> *People v. Morales*, 630 Phil. 215, 236 (2010).

<sup>88</sup> *People v. Havana*, 776 Phil. 462, 474 (2016).

Concededly, Sec. 21 and the Rules provide a saving clause, *i.e.* that noncompliance with the requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid the seizures of and custody over the item. To be sure, there is an explanation for the non-marking of the specimen at the place of arrest, with the witnesses claiming that accused-appellants here apparently had a “police coddler.” The same explanation, however, does not suffice due to the lack of detail as to how the specimen was handled from the place of arrest up to its presentation in Court, thereby not giving any assurance as to the integrity of the seized item.

To reiterate, the manner as to how Muarip ensured the integrity and identity of the seized drug was never given much emphasis by the prosecution witnesses. Moreover, the stipulations as to Decena-Go’s testimony did not delve into the safeguards taken by her or by her office when the specimen was with them, as also between the moment it was turned over to her up to the time the specimen was presented in court. Neither was there any statement found in testimony or the documents showing who handled the specimen after the laboratory examination was conducted, and the precautions made ensuring that what was presented in court was the specimen seized from accused-appellants. With these details proving the preservation of the identity and integrity of the drugs shrouded in mystery, the evidentiary value of drugs presented in court is put into question. It cannot be said with certainty that the drugs were never compromised or tampered with.<sup>89</sup>

*Only a barangay kagawad witnessed the inventory. Other witnesses as required by Sec. 21 were not present during the seizure and confiscation of the drug;*

The gaps in the chain of custody not only justify the acquittal of accused-appellants but also the deviation in the conduct of the inventory, which procedure is specifically laid down in Sec. 21 and the Rules. This part of Cruz’s cross-examination is telling:

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<sup>89</sup> See *People v. Angeles*, G.R. No. 218947, June 20, 2018.

Q: Who is this Kagawad Rodel Frayna, was he a kagawad of Muntinlupa or Quezon City?

A: Quezon City, Sir.

Q: Camp Crame?

A: Yes, Sir.

Q: So, this kagawad did not witness how the alleged shabu was confiscated, am I correct?

A: No, Sir.

Q: I am showing to you Exhibit "I", was there a representative from the DOJ who signed that inventory?

A: None, Sir.

Q: How about from the media?

A: None, Sir.

Q: How about from the accused?

A: None, Sir.

Q: You furnish[ed] Kagawad Frayna a copy of this inventory?

A: I'm not so sure, Sir.

Q: And, when the items were photographe[d] but unfortunately, you said the film was allegedly exposed, tell me, was there a representative from the DOJ likewise?

A: None, Sir.

Q: From the media?

A: None, Sir.

Q: From the accused?

A: Also none, Sir.

Q: How about the elected official, was he still present when the confiscated items were being photographed?<sup>90</sup>

There is no doubt that the only person other than the police officers and accused-appellants who witnessed the inventory and supposed taking of photographs was Barangay Kagawad Freyna. There were no Department of Justice and media representatives, directly flouting Sec. 21 and the Rules. While Sec. 21 provides some respite for police officers against the strict requirements of the law, the same cannot apply to the case at bench.

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<sup>90</sup> TSN, September 8, 2004, pp. 66-67.

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The Court observes that the prosecution offered no explanation as to the noncompliance with procedure, or whether there was justifiable ground for the law enforcers' failure to do so. The prosecution was given the opportunity to present rebuttal witnesses on this matter yet there was no evidence presented of efforts to assure the presence of DOJ or media representatives. It is noteworthy that the buy-bust operation was conducted a day after the informant went to Camp Crame and the buy-bust team made an ocular inspection. The team also had a considerable length of time to inform the necessary witnesses to enable them to sign the certificate of inventory. There was thus no excuse, and none was given, for the noncompliance with the witness requirements of Sec. 21. In previous cases, the Court was not hamstrung by the presumption of regularity in the performance of duty, but instead acquitted the accused.<sup>91</sup>

It is worthy to note that the Court has even recognized the three-witness requirement to mean the presence of witnesses at the time of apprehension, to wit:

The phrase "immediately after seizure and confiscation" means that the physical inventory and photographing of the drugs were intended by the law to be made immediately after, or at the place of apprehension. And only if this is not practicable, does the IRR allow that the inventory and photographing be done as soon as the buy-bust team reaches the nearest police station or the nearest office of the apprehending officer/team. **By the same token, this also means that the three required witnesses should already be physically present at the time of apprehension — a requirement that can easily be complied with by the buy-bust team considering that the buy-bust operation is, by its nature, a planned activity.** Simply put, the buy-bust team has enough time and opportunity to bring with them said witnesses.<sup>92</sup> (emphasis and underscoring in the original)

This ruling of the Court is relevant to this case as, indeed, there was ample time for the police operatives to procure witnesses at the place of apprehension and inventory. Similarly, this ruling should lead to the acquittal of the accused-appellants.

This is not the first time that the Court was faced with the absence of law-mandated witnesses during the taking of an inventory in drug-related cases. In *People of the Philippines v. Alvarado*<sup>93</sup> (*People v. Alvarado*), only a barangay kagawad was present during the inventory and

<sup>91</sup> See cases such as *People v. Havana*, supra note at 88; *People v. Gayoso*, supra note 77. See also *People v. Delos Reyes*, 656 Phil. 100, 114-115 (2011).

<sup>92</sup> *People v. Callejo*, G.R. No. 227427, June 6, 2018.

<sup>93</sup> G.R. No. 234048, April 23, 2018.

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photographing of the seized items. It bears repeating that in the recent case of *People of the Philippines v. Romy Lim*<sup>94</sup> (*People v. Lim*), echoed in the Office of the Court Administrator Circular No. 210-18, the Court reiterated that it must be alleged and proved that the presence of witnesses to the physical inventory and taking photographs of the illegal drug seized was not obtained due to reason/s such as: (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and taking photographs of the seized drugs was threatened by an immediate retaliatory action of the accused or any person/s acting for and on his/her behalf; (3) the elected officials themselves were involved in the punishable acts sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official, within the period required under Article 125 of the Revised Penal Code, prove futile through no fault of the arresting officers who face the threat of being charged with arbitrary detention; or (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape. There was simply no justification for the absence of the other witnesses, nor was there an attempt to explain the same. The reason that accused-appellants had “police coddlers” surely cannot justify the absence of DOJ and media representatives.

Additionally, it should be mentioned that there were no photographs on the record and submitted for the Court’s consideration. Cruz stated that they took photographs while they made the inventory, but the film “was not developed.”<sup>95</sup> This explanation is unacceptable considering the other procedural lapses committed by the arresting team.

Stated plainly, this instance is a bungled buy-bust operation. The law enforcers were seriously remiss in their duty to ensure the trustworthiness of the specimen subject of accused-appellants’ prosecution. In an inefficient, if not bungled, implementation of a poorly prepared buy-bust plan, coupled with the failure of the prosecution to present vital witnesses who could have cured the fatal flaw in its evidence, the acquittal of the accused is ensured.<sup>96</sup>

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<sup>94</sup> *People v. Lim*, G.R. No. 231989, September 4, 2018.

<sup>95</sup> TSN, September 8, 2004, p. 36.

<sup>96</sup> *People v. Tantiado*, 288 Phil. 241, 257 (1992).

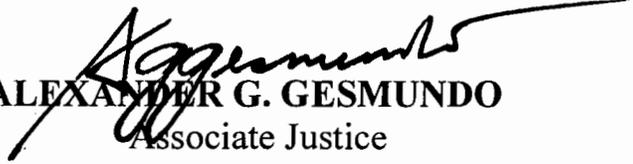
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Time and again, the Court has recognized the “pernicious effect of dangerous drugs in our society” and the malevolent and incessant threat posed by drugs to human dignity and integrity of society.<sup>97</sup> We echo, once more, the Court’s consistent plea to law enforcers and prosecution agents to be more mindful of the requirements of the law in their zealous efforts to bring to justice those who violate R.A. No. 9165. The Court is one with them in the collective intention to eradicate drug proliferation and addiction in this country, in conjunction with the Court’s bounden duty to safeguard the rights of the accused in compliance with law and jurisprudence. Where constitutional rights are put in jeopardy, the Court must step in and enforce the most paramount of our laws.

**WHEREFORE**, all premises considered, the appeal is **GRANTED**. The April 30, 2013 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 05125 is **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Nasrollah Macaumbang y Ali and Jose Sagarbaria y Misa are **ACQUITTED** of the crime charged. The Director of Bureau of Corrections is ordered to cause their immediate release, unless they are being lawfully held in custody for any other reason.

Let a copy of this Decision be furnished to the Director of the Bureau of Corrections, Muntinlupa City, for immediate implementation. The Director of the Bureau of Corrections is directed to report to this court, within five (5) days from receipt of this Decision, the action he has taken. Copies shall also be furnished the Director General of the Philippine National Police and the Director General of the Philippine Drug Enforcement Agency for their information.

**SO ORDERED.**

  
ALEXANDER G. GESMUNDO  
Associate Justice

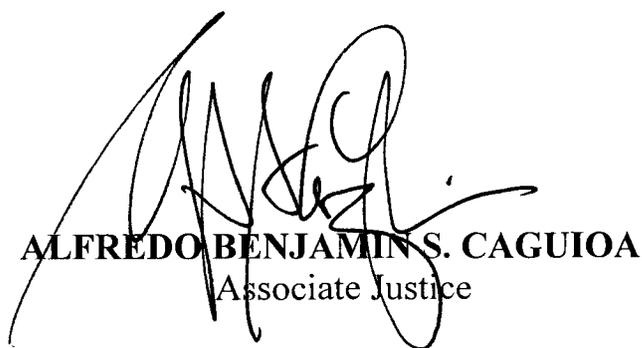
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<sup>97</sup> *People v. Villarama, Jr., et al.* 285 Phil. 723, 732 (1992).

**WE CONCUR:**

  
**LUCAS P. BERSAMIN**  
Chief Justice  
Chairperson

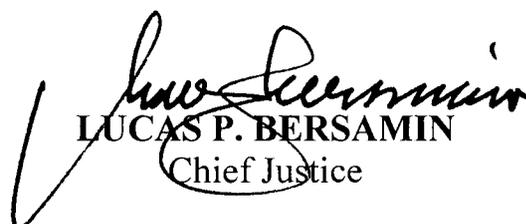
  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**ROSMAR D. CARANDANG**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**LUCAS P. BERSAMIN**  
Chief Justice

7/17/19